



**MEMORANDUM OF UNDERSTANDING BETWEEN
HM INSPECTORATE OF PRISONS AND THE NATIONAL COUNCIL AND
SECRETARIAT FOR IMBs ON BEHALF OF PRISON INDEPENDENT
MONITORING BOARDS IN ENGLAND AND WALES**

1. This Memorandum of Understanding (MoU) has been agreed between Her Majesty's Inspectorate of Prisons (HMIP) and the National Council (NC) and Secretariat for Independent Monitoring Boards (IMB) on behalf of individual IMBs. The agreement becomes effective when signed by the President of the NC, Head of Secretariat and the Chief Inspector of Prisons. The agreement:
 - Acknowledges the independence of IMBs and HMIP and the importance of that independence in fulfilling their respective responsibilities;
 - Supports the work of ensuring the effective scrutiny of treatment and conditions for detainees in custody;
 - Commits to the importance of promoting the improvement of places of custody; and
 - Encourages all parties to the MOU to work in accordance with the requirements of the Optional Protocol to the UN Convention against Torture (OPCAT).

Nothing in this MOU will supersede the obligations of parties to ensure the safety and security of individuals and establishments as set out in their existing policies and procedures.

2. Aims

The aim of this MOU is to promote a clearer understanding of the respective roles of each party, to promote an effective relationship between IMBs and HMIP and to facilitate partnership working as appropriate.

3. Her Majesty's Inspectorate of Prisons

HMIP is an independent inspectorate whose Chief Inspector is a Crown appointment. The Chief Inspector's powers derive from section 5A of the Prisons

Act 1952 (as amended)¹. The Chief Inspector reports directly to the relevant Secretaries of State and to Parliament on the treatment of and conditions for prisoners in England and Wales and immigration detainees in the United Kingdom. HMIP also inspects court custody, police custody and customs custody facilities, with Her Majesty's Inspectorate of Constabulary (HMIC), and secure training centres with Ofsted. By invitation, HMIP inspects some military detention facilities as well as prisons in Northern Ireland, and in other jurisdictions with links to the UK such as the Isle of Man. HMIP is the coordinating body for the UK's National Preventive Mechanism (NPM)², a group of 20 organisations which monitor places of detention in England, Wales, Scotland and Northern Ireland under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)³.

Details of HMIP's framework, approach and general methodology can be found at: - <http://www.justiceinspectorates.gov.uk/hmiprisons/about-our-inspections/>

4. Independent Monitoring Boards

The role of IMBs is to monitor day-to-day life in their local prison in England & Wales and immigration removal centres and short term holding facilities in England & Wales, Scotland & Northern Ireland.

The Prison Rules and DC Rules define that the principal duties of the IMB are:

- (i) to satisfy itself as to the humane and just treatment of those held in custody within its establishment and the range and adequacy of the programmes preparing them for release;
- (ii) to inform the Secretary of State, or any official to whom he has delegated authority as it judges appropriate, of any concern it has;
- (iii) to report annually to the Secretary of State on how well the establishment has met the standards and requirements placed on it and what impact these have on those in its custody.

IMBs are also members of the UK NPM and therefore discharge formal torture prevention functions.

IMB members are independent and unpaid. Members have unrestricted access to their local prison or immigration detention centre at any time. They can talk to any prisoner or detainee they wish to, out of sight and hearing of a member of staff, if necessary. Board members also play an important role in dealing with problems inside the establishment. If a prisoner or detainee has an issue that he or she has been unable to resolve through the usual internal channels, he or she can put in a confidential request to see a member of the IMB.

¹ Section 5A of the Prison Act 1952 (as amended by 1982 Criminal Justice Act, Immigration and Asylum Act 1999, Immigration, Asylum and Nationality Act 2006, Police and Justice Act 2006).

² The UK designated its NPM in March 2009. The UK's NPM is co-ordinated by HMIP.

³ Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/RES/57/199, adopted on 18 December 2003; came into force 26 June 2006.

The primary purpose of the IMBs' NC is to provide leadership, guidance, training and quality control to boards and to help them fulfil their statutory and other duties. The NC is required by the Secretary of State, through and on the advice of the Secretariat, to ensure boards work in accordance with policies and good practices where it is considered necessary for standard procedures to be operated by all boards. The Secretary of State also requires the NC to protect the independence of boards in making their proper enquiries, and reporting fully the conclusions they reach.

5. Optional Protocol to the UN Convention Against Torture (OPCAT)

The inspections and monitoring carried out by HMIP and IMBs are part of the mechanism by which the UK fulfils its obligations as a party to the Optional Protocol to the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). OPCAT acknowledges that detained persons are particularly vulnerable to ill-treatment and that efforts to stop that ill-treatment should be focussed on prevention through a system of regular independent visits to places of detention and requires state parties to:

“set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment”

The domestic visiting bodies which discharge those obligations form the National Preventive Mechanism (NPM). The NPM must be independent and adequately resourced to secure the necessary capabilities and expertise to provide effective inspection of detention facilities⁴. Both HMIP and IMBs have been designated as part of the UK NPM which is co-ordinated by HMIP and both will carry out their work in accordance with the requirements for NPMs set out in OPCAT.

The NPM and its members must:

- regularly examine the treatment of people deprived of their liberty in places of detention;
- make recommendations to the relevant authorities with the aim of improving the treatment and conditions of detainees; and
- submit proposals and observations concerning existing draft legislation.

The NPM and its members must have:

- access to information concerning the number of people deprived of their liberty, the number of places of detention and their location;
- access to information about treatment and conditions of detainees;
- access to all places of detention; and

⁴ See First annual report of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (February 2007 to March 2008), CAT/C/40/2 (14 May 2008).

- the opportunity to privately interview detainees and any other relevant person.

6. The President of the IMB National Council and HM Chief Inspector of Prisons

The President of the IMB NC and HM Chief Inspector of Prisons will meet at least quarterly to discuss issues of common concern and mutual interest.

7. The NC

The NC will:

- inform and consider joint work with HMIP on issues relevant to both parties;
- promptly provide any relevant information to HMIP that inform them of concerns in particular establishments;
- with Secretariat, promote an awareness of the vital role of HMIP and the NPM to Board Members;
- through the President, meet with HMIP regularly to review the MoU.

8. Secretariat

The Secretariat will:

- ensure copies of IMB Annual Reports are sent to HMIP;
- provide updated contact details of Chairs of Boards;
- pass to the relevant IMB as appropriate, correspondence and other intelligence received from HMIP;
- invite HMIP to attend relevant training with members of IMBs that promotes effective monitoring as specified in the NC Training Programme;
- invite a representative of HMIP to participate in the Foundation training of new IMB members as specified in the NC Training Programme.

9. HMI Prisons

HMIP will:

- provide IMBs with copies of HMIP Annual Report;
- inform and consider joint work with IMBs on issues relevant to both parties;
- seek information from IMBs on issues of concern prior to a planned visit;
- meet with the Chair/Vice Chair of the IMB as soon as possible after the commencement of an inspection to establish the views of the local IMB;
- invite the Chair of the IMB or their representative to meet with the Chief Inspector or Deputy Chief Inspector at the end of the inspection to discuss emerging findings;

- alert the IMB and/or the President as appropriate to any serious issues arising from an inspection;
- with the agreement of the Governor/Director/Manager invite the Chair of the IMB to attend the de-briefing session at the end of the inspection;
- send a copy of the report of the inspection to the IMB;
- contribute to any training relevant and supportive of effective monitoring;
- provide updated contact details;
- forward correspondence or other intelligence that may require or benefit from action to NC for them to pass on as appropriate to a relevant IMB;
- ensure inspectorate staff are aware of the independence, work and role of IMBs; and
- through the President, meet with NC regularly to review the MoU.

10. IMBs

IMBs will:

- inform HMIP of issues of serious concern through the NC;
- on unannounced inspections inform HMIP of issues of concern at the first meeting with the HMIP team leader or team;
- with the agreement of the Governor/Director/Manager ensure the Chair of the IMB or their representative attends the de-briefing session at the end of the inspection;
- use, as appropriate, the findings of HMIP inspection reports to support and inform their own monitoring role;
- in the first instance discuss with NC and HMIP any concerns arising from the report; and
- follow-up, as appropriate correspondence or other intelligence received from HMIP via NC and inform NC and HMIP of the outcome.

11. Sanctions

- Both parties to this MoU are committed to work jointly and with the Prisons and Probation Ombudsman (PPO) to ensure the delivery of our agreed protocol on the issue of sanctions⁵.
- The purpose of the protocol is to ensure prisoners or detainees are protected from any victimisation/sanctions which might take place for communicating or trying to communicate with HMIP, IMB members or the PPO; and
- Bi-annual meetings will take place to review and discuss the protocol.

12. Reconciliation of Disagreements

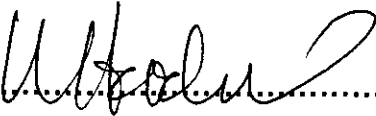
- Any disagreement between HMIP, the NC will normally be resolved at working level, for example, between a Board Chair and Inspection team leader. If this

⁵ <http://www.justiceinspectorates.gov.uk/prisons/wp-content/uploads/sites/4/2014/02/hmip-imb-ppo-protocol.pdf>

is not possible, issues should be referred to HM Chief Inspector of Prisons and/or the President of the NC. They will be responsible for ensuring a satisfactory resolution.

- Each signatory to this MOU will respect the independence and views of the parties keeping any comments between the parties.

Signed



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Nick Hardwick CBE
HM Chief Inspector of Prisons

Date: 17/9/2014

Signed




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John Thornhill
IMB President National Council IMBs

Date: 11. NOV 2014

Signed



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Mick Robins
IMB Secretariat

Date: 12 Nov 2014